

§ 317.32

extension or duplication of a previous request for which he or she was granted a waiver.

(2) Decisions to waive or reduce fees that exceed \$30 may be made on a case-by-case basis.

§ 317.32 Denying individual access.

(a) *Denying individual access.* The subject of record may be denied access only if it:

(1) Was compiled in reasonable anticipation of a civil action or proceeding; or

(2) Is in a system of records that has been exempted from the access provisions of this part.

(3) The individual should be denied access only to those portions of the record for which the denial will serve a legitimate governmental purpose.

(4) An individual may be refused access for failure to comply with established procedural requirements, but must be told the specific reason for the refusal and the proper access procedures.

(b) *Notifying the individual.* Written denial of access must be given to the individual and must be documented in a Privacy Act case file. The denial shall include:

(1) The name, title, and signature of a designated denial authority.

(2) The date of the denial.

(3) The specific reason for the denial, citing the appropriate sections of the Privacy Act or this part authorizing the denial.

(4) Notice of the individual's right to appeal the denial within 60 calendar days of the date the notice is mailed; and

(5) The title and address of the appeal official.

(c) *Appeal procedures.* Appeal procedures provide for the following:

(1) Review by the Assistant Director, Resources, DCAA Headquarters, or his or her designee, of any appeal by an individual.

(2) Written notification to the individual by the Assistant Director, Resources shall:

(i) If the denial is sustained totally or in part, include:

(A) The reason for denying the appeal, citing the provision of the Pri-

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vacancy Act or this part upon which the denial is based.

(B) The date of the appeal determination.

(C) The name, title, and signature of the appeal authority; and

(D) A statement informing the applicant of the right to seek judicial relief in Federal District Court.

(ii) If the appeal is granted, advise the individual and provide access to the record sought.

(d) *Final action, time limits, and documentation.* (1) The written appeal notification granting or denying access is the final agency action on the initial request for access.

(2) All appeals shall be processed within 30 working days, excluding Federal holidays, of receipt, unless the appeal authority finds that an adequate review cannot be completed within that period. If additional time is needed, notify the applicant in writing, explaining the reason for the delay and when the appeal will be completed.

(3) All actions on appeals must be documented in the Privacy Act case file.

(e) *Denial of appeal by the agency's failure to act.* An individual may consider his or her appeal denied if the appeal authority fails:

(1) To take final action on the appeal within 30 working days, excluding Federal holidays, of receipt when no extension of time notice was given; or

(2) To take final action within the period established by the extension of time notice.

(f) *Denying access to Office of Personnel Management (OPM) records held by the agency.* (1) The records in all systems of records maintained in accordance with the OPM Government-wide system notices are only in the temporary custody of the agency.

(2) All requests for access to these records must be processed in accordance with the OPM Federal Personnel Manual as well as DCAA Manual 1400.1⁹, "DCAA Personnel Management Manual."

⁹See footnote 1 to §317.1(a).

(3) When DCAA initially denies access to a record in an OPM Government-wide system, the agency shall instruct the individual to direct any appeal to the Assistant Director for Workforce Information, Personnel Systems and Oversight Group, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415-0001.

§ 317.33 Privacy Act case files.

(a) Documents used in processing notification, access, and amendment requests made under the Privacy Act or this part shall be filed in a Privacy Act case file established for each request, not in the record to which they pertain.

(b) Privacy Act case files should contain the following information:

(1) The request to be notified if a system of records contains a record pertaining to the individual and the request for access and amendment.

(2) Approval, denial, request for appeal, action on appeal, coordination action, and other documents relating to the request; and

(3) Documentation of reasons for exceeding the established time limits for processing the request.

(c) The Privacy Act case file shall not contain a copy of the record and shall not be used to make any determination about the individual, other than determinations about the Privacy Act request.

(d) The case file shall be used only to process requests and provide statistics such as for the annual report required by the Privacy Act.

Subpart E—Amendment of Records

§ 317.40 Individual review and amendment.

Individuals are encouraged to review periodically the information maintained about them in systems of records, and to avail themselves of the amendment procedures established by this part.

§ 317.41 Amending records.

(a) *Right to request amendment.* An individual may request the amendment of any record retrieved by his or her

personal identifier from a system of records, unless the system has been exempted from the amendment procedures. See § 317.133. Amendments are limited to correcting factual matters, not matters of opinion such as those contained in evaluations of promotion potential and performance appraisals.

(b) *Written amendment request.* The agency may require that amendment requests be in writing; however, this requirement shall not be used merely to discourage individuals from requesting valid amendments or to burden needlessly the amendment process. Only written amendment requests must be documented in the Privacy Act case file.

(c) *Content of amendment request.* An amendment request must include:

(1) A description of the information to be amended.

(2) The reason for the amendment.

(3) The type of amendment action sought (deletion, correction, or addition); and

(4) Copies of available documentary evidence supporting the request.

§ 317.42 Burden of proof.

The individual must provide adequate support for the request.

§ 317.43 Verifying identity.

The individual may be required to provide identification to prevent the inadvertent or intentional amendment of another's record.

§ 317.44 Limits on amending judicial and quasi-judicial evidence and findings.

This part does not permit the alteration of evidence presented in the course of judicial or quasi-judicial proceedings. Amendments to such records must be made in accordance with procedures established for such proceedings. This part does not permit a collateral attack on a judicial or quasi-judicial finding; however, it may be used to challenge the accuracy of recording the finding in a system of records.